

§ 852.109

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reemployment, the person may, on written application to the retirement system, resume receiving the suspended annuity.

Added by Acts 1995, 74th Leg., ch. 514, § 5, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 121, § 4, eff. Jan. 1, 2002.

Historical and Statutory Notes

2001 Legislation

Acts 2001, 77th Leg., ch. 121, in subsec. (c), substituted "Section 854.105" for "Section 854.105(c)".

§ 852.110. Correction of Errors

(a) If as a result of a reporting error on the part of a participating municipality a person has not received credited service or current service credit or has received less than the correct amount of current service credit for months in which the person performed service as an employee of the municipality, the retirement system shall correct the error as authorized by this section.

(b) A correction may not be made as to current service performed, or current service credit that should have been received, more than four years before the date an application for the correction, on a form approved by the board of trustees, is received by the retirement system.

(c) Except as provided by Subsection (g), a correction described by Subsection (a) may not be made unless the retirement system receives, in addition to the application, each of the items required under Subsection (d) and one of the following:

(1) a written agreement, approved by the municipality's governing body, stating that an error has occurred and that the municipality has agreed to correct the error;

(2) a final judgment by a court of competent jurisdiction in a proceeding to which the municipality was a party, ordering the municipality to correct the error; or

(3) an order in an administrative proceeding to which the municipality was a party, directing the subdivision to correct the error, and that is no longer subject to appeal.

(d) A correction described by Subsection (a) may not be made unless the retirement system receives:

(1) a supplemental report properly signed on behalf of the municipality showing the corrections to credited service or current service credit of the person;

(2) payment from the person seeking the correction in an amount equal to the contribution or additional contribution the person would have made to the retirement system if the service had been correctly reported to the system; and

(3) payment from the municipality in an amount equal to the additional contribution that the municipality should have paid to the retirement system based on the additional credited service or current service credit.

(e) A municipality that is the subject of an agreement, a judgment, or an order described by Subsection (c) shall file the supplemental report and submit the payments described by this section not later than the 30th day after the date the municipality is notified in writing by the retirement system that those items should be sent to the retirement system.

(f) If as a result of a reporting error on the part of a participating municipality a person has not received prior service credit, on written application to the retirement system accompanied by evidence of the prior service satisfactory to the retirement system, the retirement system shall correct the error if the retirement system receives the person's written application for the correction within four years after the later of the date the municipality began participation or the person first became a member of the retirement system.

(g) The correction of an error affecting not more than three monthly reports within a period of not more than three consecutive months may be made on the basis of the application alone if the application, the supplemental report, and the payments required by this section

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are received by the retirement system before the first day of the seventh month after the month for which the correction is being made.

Added by Acts 1999, 76th Leg., ch. 83, § 2, eff. Dec. 31, 1999.

Notes of Decisions

Construction and application 1

1. Construction and application

Section 852.110 of the Government Code will govern the correction of service credit reports that

were made or should have been made by participating cities. Pursuant to section 852.110 of the Government Code, corrections may not be made more than four years after the report should have been made. Op.Atty.Gen.1999, No. JC-0066.

CHAPTER 853. CREDITABLE SERVICE

SUBCHAPTER B. ESTABLISHMENT OF PRIOR SERVICE

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853.105. Determination of Prior Service Credit.

SUBCHAPTER D. OPTIONAL SERVICE

853.304. Prior Service Credit for Probationary Employment.

853.305. Credit for Service With Nonparticipating Municipality, Airport Authority, or Council of Governments, or Certain Service Previously Canceled.

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853.401. Ordinance Authorizing Updated Service Credits.

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SUBCHAPTER F. MILITARY SERVICE

853.505. Use of Military Service Credit.

853.506. Current Service for Reemployed Veterans.

SUBCHAPTER B. ESTABLISHMENT OF PRIOR SERVICE

§ 853.105. Determination of Prior Service Credit

(a) After receiving a certification of prior service and average prior service compensation under Section 853.104, the board of trustees shall determine the member's prior service credit.

(b) For an employee of a municipality having an effective date of participation in the retirement system before January 1, 1976, the prior service credit is an amount equal to the accumulation at interest of a series of equal monthly amounts for the number of months of approved prior service. Each monthly amount equals 10 percent of the member's average prior service compensation, or \$300 a month, whichever is less. Interest is allowed at the end of each 12-month period on an accumulated amount at the beginning of each period and is credited only for each whole 12-month period.

(c) For an employee of a municipality having an effective date of participation in the retirement system after December 31, 1975, the prior service credit is an amount computed as a percentage determined as provided by Subsection (d), times a base credit equal to the accumulation at three percent interest of a series of monthly amounts for the number of months of approved prior service, times the sum of:

(1) the rate of contributions required of employees of the municipality for current service; plus

(2) the rate described in Subdivision (1) times the municipal current service matching ratio.

(d) The governing body of a municipality having an effective date of retirement system participation after December 31, 1975, shall determine in the ordinance providing for participation the percentage to be applied against the base credit in computing a prior service credit under Subsection (c). The percentage adopted may be any multiple of 10 percent that